

**Proposed Regulatory Language
Committee I - Loans**

Quick Fix: Yes

Origin: ED - Additional Agenda Item

Issue: DL - Master Promissory Note

Regulatory Cite: §685.102(b)

Summary of Change: Under current regulations, the expiration of a Direct Loan Master Promissory Note (MPN) is based on the date of the first anticipated disbursement. Common Origination and Disbursement (COD) provides an opportunity to make the Direct Loan MPN expiration date provisions more consistent with the corresponding FFEL provisions. The proposed changes to the definition of MPN in §685.102(b) would base the expiration date of a Direct Loan MPN on the date the MPN is signed by the borrower or the date the Secretary receives the MPN.

Change:

§685.102 Definitions.

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(b) ***

Master promissory note (MPN): (1) A promissory note under which the borrower may receive loans for a single academic year or multiple academic years.

(2) For MPNs processed by the Secretary before July 1, 2003, ~~L~~oans for multiple academic years may no longer be made under an MPN after the earliest of--

(i) The date the Secretary or the school receives the borrower's written notice that no further loans may be disbursed;

(ii) One year after the date of the borrower's first anticipated disbursement if no disbursement is made during that twelve-month period; or

(iii) Ten years after the date of the first anticipated disbursement except that a remaining portion of a loan may be disbursed after this date.

(3) For MPNs processed by the Secretary on or after July 1, 2003, loans may no longer be made under an MPN after the earliest of--

(i) The date the Secretary or the school receives the borrower's written notice that no further loans may be disbursed;

(ii) One year after the date the borrower signed the MPN or the date the Secretary receives the MPN, if no disbursements are made under that MPN; or

(iii) Ten years after the date the borrower signed the MPN or the date the Secretary receives the MPN, except that a remaining portion of a loan may be disbursed after this date.

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(2) Amendatory Language:

Section 685.102(b) is amended by revising the definition of "Master promissory note (MPN)" to read as follows:

§685.102 Definitions.

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(b) ***

Master promissory note (MPN): (1) A promissory note under which the borrower may receive loans for a single academic year or multiple academic years.

(2) For MPNs processed by the Secretary before July 1, 2003, loans may no longer be made under an MPN after the earliest of--

(i) The date the Secretary or the school receives the borrower's written notice that no further loans may be disbursed;

(ii) One year after the date of the borrower's first anticipated disbursement if no disbursement is made during that twelve-month period; or

(iii) Ten years after the date of the first anticipated disbursement except that a remaining portion of a loan may be disbursed after this date.

(3) For MPNs processed by the Secretary on or after July 1, 2003, loans may no longer be made under an MPN after the earliest of--

(i) The date the Secretary or the school receives the borrower's written notice that no further loans may be disbursed;

(ii) One year after the date the borrower signed the MPN or the date the Secretary receives the MPN, if no disbursements are made under that MPN; or

(iii) Ten years after the date the borrower signed the MPN or the date the Secretary receives the MPN, except that a remaining portion of a loan may be disbursed after this date.

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**Proposed Regulatory Language
Committee I - Loans**

Quick Fix: No

Origin: ED

Issue: Direct Loan - Loan Limits

Regulatory Cite: §685.203(a) and (c)

Summary of Change: The proposed change would clarify that (1) a borrower who is enrolled in a one-year program of study may not borrow more than the amounts allowed under the first-year undergraduate annual loan limits, and (2) a borrower who is enrolled in a two-year program of study may not borrow more than the amounts allowed under the second-year undergraduate loan limits.

(1) Change (context):

§685.203 Loan limits.

(a) Direct Subsidized Loans. (1) In the case of an undergraduate student who has not successfully completed the first year of a program of undergraduate education, the total amount the student may borrow for any academic year of study under the Federal Direct Stafford/Ford Loan Program in combination with the Federal Stafford Loan Program may not exceed the following:

(i) \$2,625 for a program of study of at least a full academic year in length.

(ii) For a one-year program of study with less than a full academic year remaining, the amount that is the same ratio to \$2,625 as the --

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

(iii) For a program of study that is less than a full academic year in length, the amount that is the same ratio to \$2,625 as the lesser of the --

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

or

$$\frac{\text{Number of weeks enrolled}}{\text{Number of weeks in academic year}}$$

(2) In the case of an undergraduate student who has successfully completed the first year of an undergraduate program but has not successfully completed the second year of an undergraduate program, the total amount the student may borrow for any academic year of study under the Federal Direct Stafford/Ford Loan Program in combination with the Federal Stafford Loan Program may not exceed the following:

(i) \$3,500 for a program of study of at least a full academic year in length.

(ii) For a program of study with less than a full academic year remaining, an amount that is the same ratio to \$3,500 as the --

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

Number of semester, trimester, quarter, or clock hours in academic year

(3) In the case of an undergraduate student who has successfully completed the first and second years of a program of study of undergraduate education but has not successfully completed the remainder of the program, the total amount the student may borrow for any academic year of study under the Federal Direct Stafford/Ford Loan Program in combination with the Federal Stafford Loan Program may not exceed the following:

(i) \$5,500 for a program of study of at least an academic year in length.

(ii) For a program of study with less than a full academic year remaining, an amount that is the same ratio to \$5,500 as the --

Number of semester, trimester, quarter, or clock hours enrolled
Number of semester, trimester, quarter, or clock hours in academic year

(4) In the case of a student who has an associate or baccalaureate degree which is required for admission into a program and who is not a graduate or professional student, the total amount the student may borrow for any academic year of study may not exceed the amounts in paragraph (a)(3) of this section.

* * * * *

(8) Except as provided in paragraph (a)(4) of this section, an undergraduate student who is enrolled in a program that is

one academic year in length may not borrow an amount for any academic year of study that exceeds the amounts in paragraph (a)(1) of this section.

(9) Except as provided in paragraph (a)(4) of this section

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(i) An undergraduate student who is enrolled in a program that is two academic years in length and who has not successfully completed the first year of the program may not borrow an amount for any academic year of study that exceeds the amounts in paragraph (a)(1) of this section.

(ii) An undergraduate student who is enrolled in a program that is two academic years in length and who has successfully completed the first year of the program may not borrow an amount for any academic year of study in the remaining portion of the program that exceeds the amounts in paragraph (a)(2) of this section.

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(c) Additional eligibility for Direct Unsubsidized Loans.

(1) ***

(2) The additional amount that a student described in paragraph (c)(1)(i) of this section may borrow under the Federal Direct Unsubsidized Stafford/Ford Loan Program and the Federal Unsubsidized Stafford Loan Program for any academic year of study may not exceed the following:

(i) In the case of a student who has not successfully completed the first year of a program of undergraduate education --

(A) \$4,000 for a program of study of at least a full academic year in length.

(B) For a program of study with less than a full academic year remaining, an amount that is the same ratio to \$4,000 as the --

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

(C) For a one-year program of study with less than a full academic year remaining, the amount that is the same ratio to \$4,000 as the --

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

(D) For a program of study that is less than a full academic year in length, an amount that is the same ratio to \$4,000 as the lesser of the --

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

or

$$\frac{\text{Number of weeks enrolled}}{\text{Number of weeks in academic year}}$$

(ii) In the case of a student who has completed the first year of a program of undergraduate education but has not

successfully completed the second year of a program of undergraduate education --

(A) \$4,000 for a program of study of at least a full academic year in length.

(B) For a program of study with less than a full academic year remaining, an amount that is the same ratio to \$4,000 as the --

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

(iii) In the case of a student who has successfully completed the second year of a program of undergraduate education but has not completed the remainder of the program of study --

A) \$5,000 for a program of study of at least a full academic year in length.

(B) For a program of study with less than a full academic year remaining, an amount that is the same ratio to \$5,000 as the --

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

(iv) In the case of a student who has an associate or baccalaureate degree which is required for admission into a program and who is not a graduate or professional student, the

total amount the student may borrow for any academic year of study may not exceed the amounts in paragraph (c)(2)(iii) of this section.

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(viii) Except as provided in paragraph (c)(2)(iv) of this section, an undergraduate student who is enrolled in a program that is one academic year in length may not borrow an amount for any academic year of study that exceeds the amounts in paragraph (c)(2)(i) of this section.

(ix) Except as provided in paragraph (c)(2)(iv) of this section --

(A) An undergraduate student who is enrolled in a program that is two academic years in length and who has not successfully completed the first year of the program may not borrow an amount for any academic year of study that exceeds the amounts in paragraph (c)(2)(i) of this section.

(B) An undergraduate student who is enrolled in a program that is two academic years in length and who has successfully completed the first year of the program may not borrow an amount for any academic year of study in the remaining portion of the program that exceeds the amounts in paragraph (c)(2)(ii) of this section.

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(2) Amendatory Language:

Section 685.203 is amended:

A. By adding new paragraphs (a)(8) and (a)(9).

B. By adding new paragraphs (c)(2)(viii) and (c)(2)(ix).

The additions read as follows:

§685.203 Loan limits.

(a) ***

(8) Except as provided in paragraph (a)(4) of this section, an undergraduate student who is enrolled in a program that is one academic year in length may not borrow an amount for any academic year of study that exceeds the amounts in paragraph (a)(1) of this section.

(9) Except as provided in paragraph (a)(4) of this section --

(i) An undergraduate student who is enrolled in a program that is two academic years in length and who has not successfully completed the first year of the program may not borrow an amount for any academic year of study that exceeds the amounts in paragraph (a)(1) of this section.

(ii) An undergraduate student who is enrolled in a program that is two academic years in length and who has successfully completed the first year of the program may not borrow an amount for any academic year of study in the remaining portion of the program that exceeds the amounts in paragraph (a)(2) of this section.

* * * * *

(c) ***

(2) ***

(viii) Except as provided in paragraph (c)(2)(iv) of this section, an undergraduate student who is enrolled in a program that is one academic year in length may not borrow an amount for any academic year of study that exceeds the amounts in paragraph (c)(2)(i) of this section.

(ix) Except as provided in paragraph (c)(2)(iv) of this section --

(A) An undergraduate student who is enrolled in a program that is two academic years in length and who has not successfully completed the first year of the program may not borrow an amount for any academic year of study that exceeds the amounts in paragraph (c)(2)(i) of this section.

(B) An undergraduate student who is enrolled in a program that is two academic years in length and who has successfully completed the first year of the program may not borrow an amount for any academic year of study in the remaining portion of the program that exceeds the amounts in paragraph (c)(2)(ii) of this section.

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**Proposed Regulatory Language
Committee I - Loans**

Quick Fix: No

Origin: FED UP #52

Issue: Direct Loan - Disability Discharge on Consolidation Loans

Regulatory Cite: §685.212(a) and §685.220(1)

Summary of Change: Under current regulations, a FFEL or Direct Loan program PLUS loan is discharged if the student for whom the loan was obtained dies. The proposed changes would extend this benefit to consolidation loans by providing for discharge of all or a portion of a consolidation loan if a parent borrower consolidates a PLUS loan and the student for whom the underlying PLUS loan was obtained then dies.

In general, current regulations provide that a FFEL or Direct Loan program joint consolidation loan may be discharged only if both borrowers meet the criteria for a loan discharge. There is an exception to this policy if one of the borrowers qualifies for a loan discharge based on school closure, false certification, or unpaid refund, but the borrower's spouse does not qualify for any type of discharge. In such cases, a partial discharge of the joint consolidation loan may be granted. The proposed change would extend this exception and allow for partial discharge of a joint consolidation loan when one of the borrowers dies or becomes totally and permanently disabled, or is eligible for teacher loan forgiveness.

(1) Change (context):

§685.212 Discharge of a loan obligation.

(a) Death. (1) If a borrower (or the student on whose behalf a parent borrowed a Direct PLUS Loan) dies, the Secretary discharges the obligation of the borrower and any endorser to make any further payments on the loan based on an original or

certified copy of the borrower's (or student's in the case of a Direct PLUS loan) death certificate.

(2) If an original or certified copy of the death certificate is not available, the Secretary discharges the loan only based on other reliable documentation that establishes, to the Secretary's satisfaction, that the borrower (or student) has died. The Secretary discharges a loan based on documentation other than an original or certified copy of the death certificate only under exceptional circumstances and on a case-by-case basis.

(3) In the case of a Direct PLUS Consolidation Loan, the Secretary discharges the portion of the outstanding balance of the consolidation loan attributable to any Direct PLUS Loan or Federal PLUS Loan that was obtained on behalf of a student who dies and that was repaid by the consolidation loan.

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§685.220 Consolidation.

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(1) Special provisions for joint consolidation loans. ***

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(3) Discharge. (i) ~~To obtain a discharge of a joint Direct Consolidation Loan under §685.212, each borrower must meet the requirements for one of the types of discharge described in that section.~~ If a borrower dies and the Secretary receives the documentation described in §685.212(a), the Secretary discharges the portion of the outstanding balance of the consolidation loan attributable to any of that borrower's loans that were repaid by the consolidation loan.

(ii) If a borrower meets the requirements for total and permanent disability discharge under §685.212(b), the Secretary discharges the portion of the outstanding balance of the consolidation loan attributable to any of that borrower's loans that were repaid by the consolidation loan.

~~(iii)~~ (iii) If a borrower meets the requirements for discharge under §685.212(d), (e), or (f) on a loan that was consolidated into a joint Direct Consolidation Loan ~~and the borrower's spouse does not meet the requirements for any type of discharge in §685.212,~~ the Secretary discharges a the portion of the consolidation loan equal to the amount of the loan that would ~~have been~~ be eligible for discharge under the provisions of §685.212(d), (e), or (f) as applicable, and that was repaid by the consolidation loan.

(iv) If a borrower meets the requirements for loan forgiveness under §685.212(h) on a loan that was consolidated

into a joint Direct Consolidation Loan, the Secretary repays the portion of the outstanding balance of the consolidation loan attributable to the loan that would be eligible for forgiveness under the provisions of §685.212(h), and that was repaid by the consolidation loan.

* * * *

(2) Amendatory Language:

Section 685.212(a) is amended by adding a new paragraph (3) to read as follows:

§685.212 Discharge of a loan obligation.

(a) ***

(3) In the case of a Direct PLUS Consolidation Loan, the Secretary discharges the portion of the outstanding balance of the consolidation loan attributable to any Direct PLUS Loan or Federal PLUS Loan that was obtained on behalf of a student who dies and that was repaid by the consolidation loan.

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Section 685.220(1)(3) is revised to read as follows:

§685.220 Consolidation.

* * * *

(1) ***

(3) Discharge. (i) If a borrower dies and the Secretary receives the documentation described in §685.212(a), the Secretary discharges the portion of the outstanding balance of

the consolidation loan attributable to any of that borrower's loans that were repaid by the consolidation loan.

(ii) If a borrower meets the requirements for total and permanent disability discharge under §685.212(b), the Secretary discharges the portion of the outstanding balance of the consolidation loan attributable to any of that borrower's loans that were repaid by the consolidation loan.

(iii) If a borrower meets the requirements for discharge under §685.212(d), (e), or (f) on a loan that was consolidated into a joint Direct Consolidation Loan, the Secretary discharges the portion of the consolidation loan equal to the amount of the loan that would be eligible for discharge under the provisions of §685.212(d), (e), or (f) as applicable, and that was repaid by the consolidation loan.

(iv) If a borrower meets the requirements for loan forgiveness under §685.212(h) on a loan that was consolidated into a joint Direct Consolidation Loan, the Secretary repays the portion of the outstanding balance of the consolidation loan attributable to the loan that would be eligible for forgiveness under the provisions of §685.212(h), and that was repaid by the consolidation loan.

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**Proposed Regulatory Language
Committee I - Loans**

Quick Fix: Yes

Origin: 1/7/02 Suggestion

Issue: DL - Definition of Default

Regulatory Cite: §668.183(c)(1)(iii)

Summary of Change: The proposed change would eliminate the requirement that certain borrowers under the Direct Loan Program's income contingent repayment plan must be included as a defaulted loan in the calculation of a non-degree-granting proprietary institution's FFEL/DL cohort default rate.

(1) Change (context):

§668.183 Calculating and applying cohort default rates

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(c) Identify the borrowers in a cohort who are in default.

(1) ***

(ii) Before the end of the following fiscal year, the borrower fails to make an installment payment, when due, on any Direct Loan Program loan that was used to include the borrower in the cohort or on any Federal Direct Consolidation Loan Program loan that repaid a loan that was used to include the borrower in the cohort, and the borrower's failure persists for 360 days (or for 270 days, if the borrower's first day of delinquency was before October 7, 1998); or

~~(iii) You are a proprietary, non-degree-granting institution, and before the end of the following fiscal year,~~

~~the borrower has been in repayment for 360 days, under the Direct Loan Program's income contingent repayment plan, on a loan used to include the borrower in your cohort (or that repaid a loan that was used to include the borrower in your cohort), with scheduled payments that are less than 15 dollars per month and are less than the amount of interest accruing on the loan;~~
or

——(iviii) Before the end of the following fiscal year, you or your owner, agent, contractor, employee, or any other affiliated entity or individual make a payment to prevent a borrower's default on a loan that is used to include the borrower in that cohort.

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§668.193 Loan servicing appeals.

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(d) Representative sample of records. (1) To select a representative sample of records, the data manager first identifies all of the borrowers for whom it is responsible and who had loans that were considered to be in default in the calculation of the cohort default rate you are appealing. However, ~~for the purposes of this paragraph, the data manager does not identify a borrower as defaulted due to repayment under the Direct Loan Program's income contingent repayment plan, under §668.183(c)(1)(iii).~~

* * * * *

(f) ***

~~(3) Our recalculation of your cohort default rate does not affect the number of borrowers who are considered to be in default due to payments made under the Direct Loan Program's income contingent repayment plan, under the criteria in §668.183(c)(1)(iii).~~

(2) Amendatory Language:

§668.183 [Amended]

Section 668.183(c)(1) is amended:

- A. In paragraph (ii), by adding "or" after the semi-colon.
- B. By removing paragraph (iii).
- C. By redesignating paragraph (iv) as (iii).

§668.193 [Amended]

Section 668.193 is amended:

- A. In paragraph (d)(1), by removing the second sentence.
- B. By removing paragraph (f)(3).